

The Art of the Possible

MONUSCO's New Mandate



Politics must drive the design and implementation of peace operations. Lasting peace is achieved not through military and technical engagements, but through political solutions. Political solutions should always guide the design and deployment of United Nations peace operations. When the momentum behind peace falters, the United Nations, and particularly Member States, must help to mobilize renewed political efforts to keep peace processes on track.

The High-Level Independent Panel on Peace Operations, 2015

The Congo Research Group (CRG) is an independent, non-profit research project dedicated to understanding the violence that affects millions of Congolese. We carry out rigorous research on different aspects of the conflict in the Democratic Republic of the Congo. All of our research is informed by deep historical and social knowledge of the problem at hand. We are based at the Center on International Cooperation at New York University.

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Executive Summary

The current mandate of the United Nations Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) expires on March 31 2018. The stakes of the mandate renewal are substantial: this is the largest and most expensive UN peacekeeping mission, and the Congo is at a critical juncture. President Joseph Kabila is in the midst of a tumultuous succession battle. He is barred from seeking a third term in office and has repeatedly delayed the holding of elections, which should have taken place at the end of 2016. These delays have prompted an upsurge in popular protests, which have been violently repressed by security services.

At the same time, violence has escalated. The country currently hosts 4.5 million displaced people, more than ever before, and almost twice as many as two years ago. There has been a proliferation of armed groups: just in the Kivu provinces, the number has increased from around 70 in 2015 to over 120 today.

The only way to fundamentally transform conflict dynamics is by rendering the government more accountable. The persistence of violence is closely linked to the weakness of state institutions, the lack of accountability within the government and its security services, and an absence of investment in conflict resolution.

MONUSCO's main priority over the next year should be to help forge an environment conducive to credible elections. The Security Council should articulate clear conditions for MONUSCO support to the electoral process, including allowing opposition protests, freeing political prisoners, ending the controversial "doubling" of political parties, and rendering electoral institutions more neutral. The Security Council should convene frequent meetings and organize a trip to the region to assess progress toward elections based on clear benchmarks. If it is clear that the Congolese government does not intend to ensure the standards necessary for credible elections, MONUSCO and donors should withdraw their logistical and financial support.

Given the increase in armed violence, the protection of civilians should remain a priority for MONUSCO. However, in this regard, the mission should reduce its reliance on military joint operations with the Forces Armées de la République Démocratique du Congo (FARDC), which is responsible for the majority of human rights violations in the country. Instead, it should place greater weight on non-military innovations in civilian protection, as well as on unilateral actions when necessary.

With its new mandate, MONUSCO should seek to reassert its moral standing by articulating a bold vision for the country. Given the mission's political marginalization – over the past decade it has largely been confined to a role of monitoring, reporting, and military operations – this will only be possible as part of a comprehensive strategy together with regional organizations and with the enthusiastic backing of the Security Council.

This paper is intended to provide the basis for further discussions with UN officials, civil society, and diplomats. Updated recommendations may be published at a later date.

Recommendations

In renewing MONUSCO's mandate on March 31 2018, the UN Security Council should:

- Call for a regional, comprehensive, and coordinated strategy for elections and rebuild a viable political strategy for protecting civilians in zones of armed conflict.
- Make the mission's priority the holding of credible elections.
- Encourage MONUSCO leadership to take a strong, principled stance on human rights violations and the integrity of the electoral process.
- Request the Department of Peacekeeping Operations to conduct an evaluation of the degree to which recommendations of the High-Level Independent Panel on Peace Operations (HIPPO) have been implemented by MONUSCO.

With regard to elections, the Council should:

- Define clear conditions for MONUSCO support to the electoral process. Bearing in mind the risks that come with a suspension of cooperation, these conditions should include allowing opposition protests, freeing political prisoners, and ending the controversial “doubling” of political parties.
- Drawing on these conditions, and the Commission Electorale Nationale Indépendante (CENI)'s electoral calendar, develop clear benchmarks to assess progress toward elections.
- Adopt a flexible approach that can assess the multiple challenges to the integrity of the process in a holistic fashion. This can be done by:
 - Convening frequent meetings, as well as a trip to the Great Lakes region.
 - Request MONUSCO to produce an assessment of the electoral process and the general political climate by the end of August 2018, by when the presidential candidates should have been announced.
- Provide strong backing for the Special Representative of the Secretary-General to try to broker a consensual path to elections.
- Authorize more Formed Police Units (FPU) for the monitoring of demonstrations and to protect civilians in urban environments, if necessary to be compensated with a drawdown in military contingents.
- Strongly encourage the Congolese government to work with the Group of Election Experts to help render the electoral process more transparent.

The Council and the UN Secretary-General should make it clear that if it becomes obvious that there will not be credible elections, they will:

- Request MONUSCO to suspend its support for the electoral process and for joint military operations.
- Convene an urgent meeting to discuss a way forward, placing an emphasis on a consensual solution in collaboration with the region.

- Expand the mandate and staffing of the UN Group of Experts on the Democratic Republic of Congo to include examining support to militias and human rights abuses in the context of elections.
- If elections are held and not deemed to be credible, transform the mission from its current stabilization mandate to a much more limited engagement.

With regard to the protection of civilians, the Council should:

- Strongly condition joint operations with the FARDC, on the implementation of its Human Rights Due Diligence Policy (HRDDP), as well as on joint planning and a civilian harm reduction strategy.
- Suspend material support to the FARDC and the Police Nationale Congolaise (PNC) unless it is for operations that are jointly planned and executed.
- Enhance its non-military innovations in civilian protection and place an emphasis on unilateral actions when necessary.
- Provide its troops and civilian officials with training and instruction on how to deal with civilian protection in the context of the electoral process and how to be forward-leaning in condemning abuses perpetrated by the government.
- Set up a mechanism to monitor the performance of troop contributing countries that report directly to the UN Security Council and the Secretary-General.
- Request for troops to be replaced if they fall beneath the standards of UN peacekeeping in terms of their proactive interpretation of the mandate.
- Set up a whistleblower system for reporting abuses carried out by civilian and military members of the UN mission.

Introduction

The context for MONUSCO mandate renewal is tumultuous. For several years, the country has been embroiled in a political battle over President Joseph Kabila's succession. He was supposed to step down in December 2016, as the constitution barred him from running for a third term in office, but he has delayed elections until December 23 2018. In the meantime, violence has escalated, especially in the eastern Congo, displacing hundreds of thousands of people in the provinces of Ituri, North Kivu, South Kivu, and Tanganyika.

The electoral imbroglio

Beginning in around 2014, the electoral calendar began seriously slipping. Several reasons were behind this – some more justified than others – including violence in the eastern Congo and the Kasais, several rounds of negotiations with the opposition, and the decision to re-register the entire electorate. Distrust of the government prompted protests in several cities that were met with violent repression by security forces in January 2015, September 2016, and December 2016. Finally, on December 31 2016, the government signed a deal with the opposition, brokered by the Catholic Church that called for an opening of political space, the creation of a national unity government, a follow-up committee (Conseil National de Suivi de l'Accord - CNSA), and a delay of elections until the end of 2017.

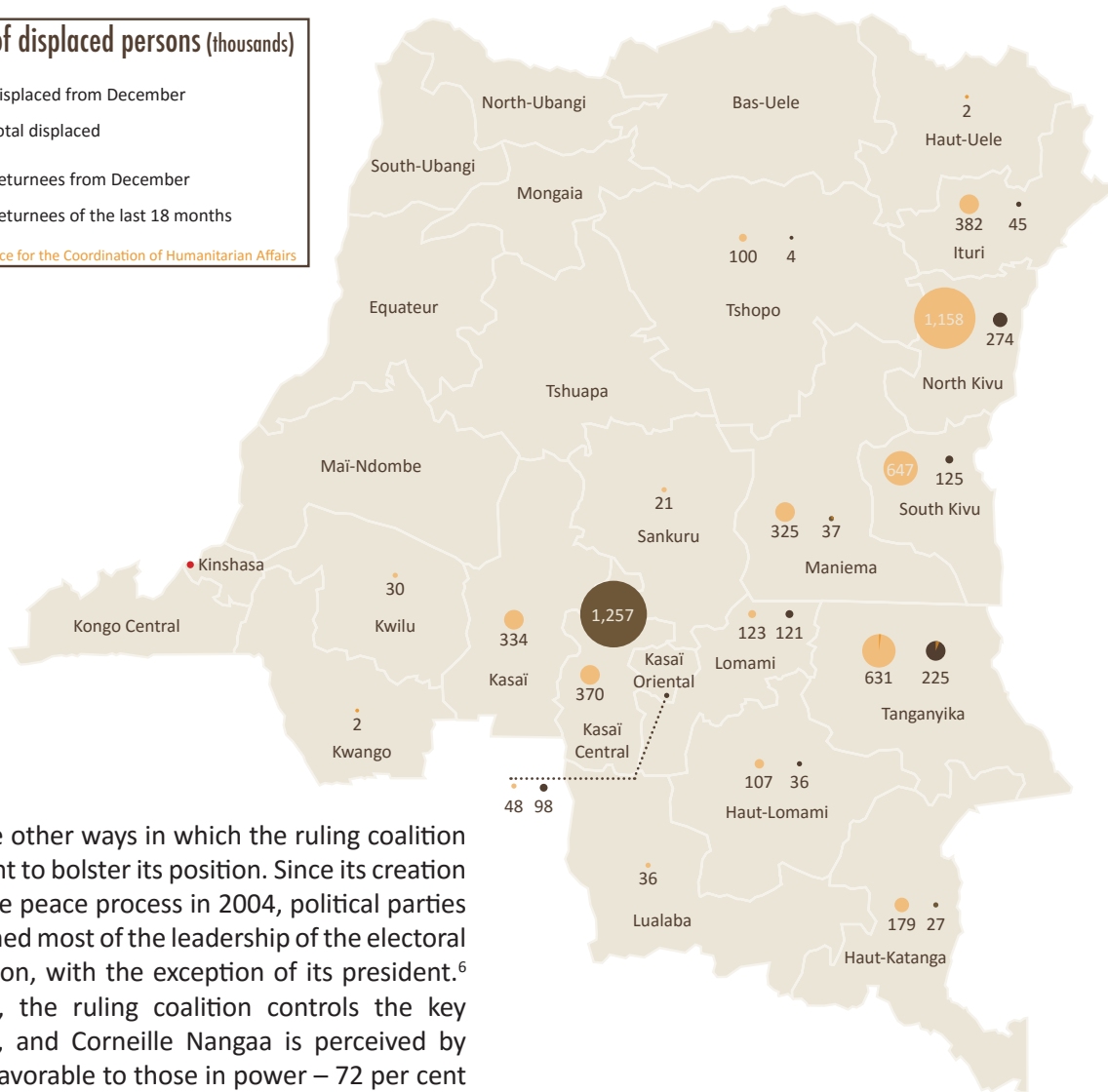
This deal, however, was quickly violated by the ruling coalition, which took advantage of discord within the opposition to co-opt some of its members into a new government and the CNSA. The government freed some political prisoners, but others were arrested, only some of those in political exile were allowed to return,¹ and elections were delayed by another year, to December 23 2018. These steps led the main opposition coalition, the *Rassemblement de l'opposition*, as well as within civil society to call for Kabila to step down before elections could be held.

In late 2017, however, the government appears to have changed tack, from delaying elections,

to trying to organize elections on its terms. In November 2017 the Commission Électorale Nationale Indépendante (CENI) finally published an electoral calendar. The legislature quickly passed a national budget containing funds for the holding of elections and rushed through a new electoral law. The president of the CENI, Corneille Nangaa, has made repeated statements that Congolese need to prepare themselves for a new president, and the minister of communication, Lambert Mende, has said that President Kabila will step down when elections are held.² While the president is probably preserving several fallback options – for example, he diligently avoided saying he would step down in a rare press conference in January 2018 – and presidential advisors have contradicted these declarations in private,³ this suggests that the ruling coalition sees elections as more in its interest than further delays.

Holding elections is not, however, the only measure of progress. The preparations for these polls have skewed the playing field heavily in favor of the ruling elite. Several senior opposition figures are in exile, and others are in prison in Kinshasa on questionable charges.⁴ All demonstrations critical of the government have been banned since September 2016, and several media have been shut down. Numerous international researchers and journalists have been expelled or denied visas, and the mobility of foreign journalists within the country has been limited.⁵

This report draws on several dozen interviews with senior officials in MONUSCO and in the Department of Peacekeeping Operations; with Congolese civil society and youth leaders; and with diplomats in Kinshasa, New York, and Brussels, including five members of the UN Security Council.



There are other ways in which the ruling coalition has sought to bolster its position. Since its creation during the peace process in 2004, political parties have named most of the leadership of the electoral commission, with the exception of its president.⁶ Currently, the ruling coalition controls the key positions, and Corneille Nangaa is perceived by most as favorable to those in power – 72 per cent of people polled by CRG/BERCI had a bad opinion of him, down considerably from 2016. Similarly, the constitutional court and the various appeals courts that would hear electoral disputes are considered by many observers to be highly partisan.⁷

An electoral law promulgated in January 2018 has created new financial and legal impediments for candidates. Political parties have to pay at least a million dollars in non-refundable deposits to register candidates in all races across the country, funds that parties who do not have access to state coffers and positions will be hard pressed to raise. Nonetheless, it is in the parties' interest to run as many candidates as they can, as a new threshold dictates that they have to win at least 1 per cent of votes in the national legislative elections to be

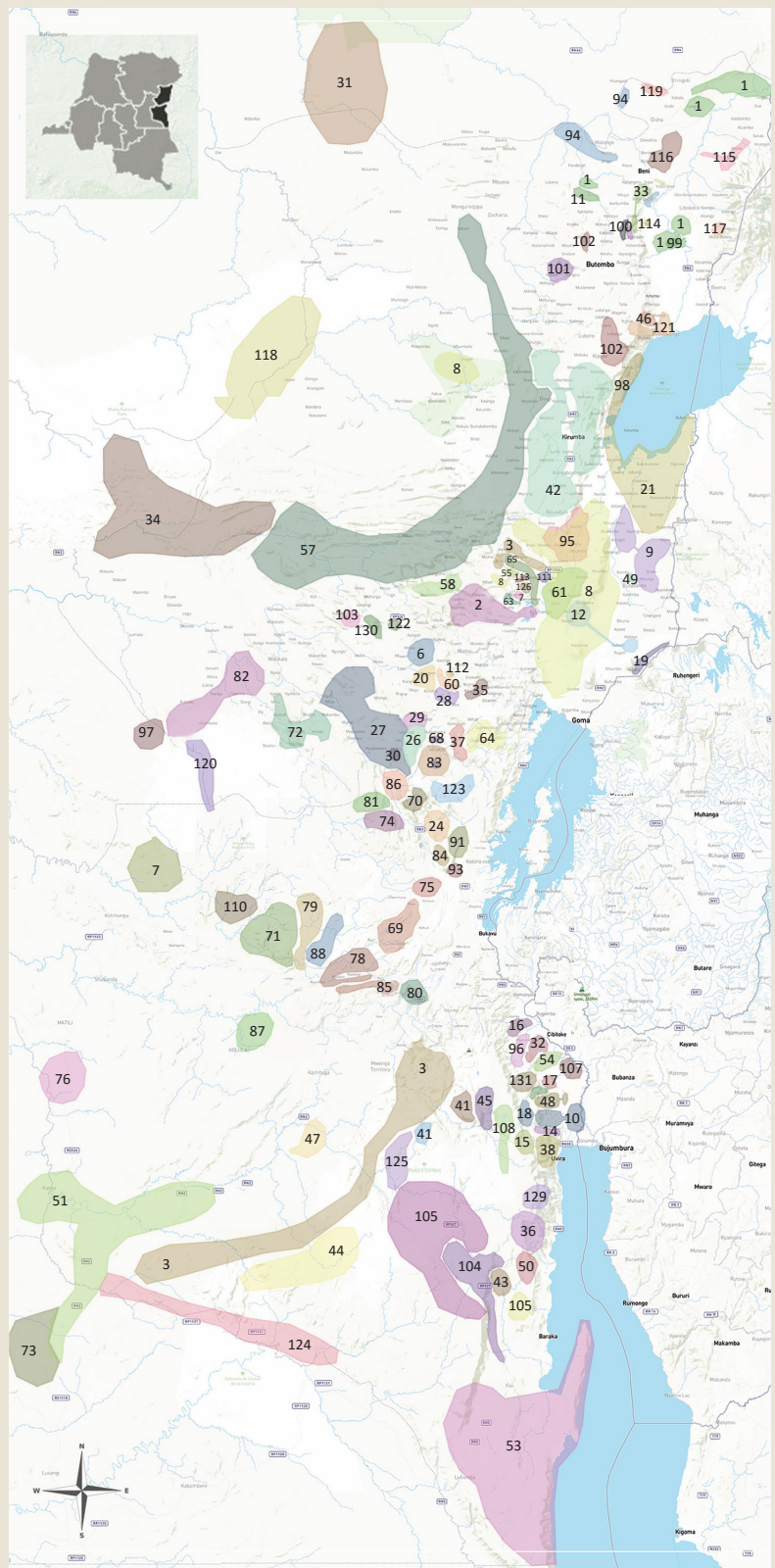
able to have a seat in parliament. According to that logic, 77 of the 98 parties currently in parliament would not have won a seat in the 2011 elections.

Some of the dispositions on the electoral law appear to run afoul of the constitution. The most worrisome article requires political parties to obtain authorization for any demonstration; the constitution merely requires the relevant authorities to be informed.⁸

Finally, there has been a systematic *doublément* ("doubling") of opposition parties as factions split off and then win the legal right to the party's name. According to the electoral commission, the final list of political parties eligible for elections was supposed to be published on December 21 2017.

Armed Actors in North and South Kivu

- | | |
|--------------------------------|-------------------------------|
| 1. ADF | 70. RM Butachibera |
| 2. APCLS | 71. RM Donat/Ngandu |
| 3. CNRD | 72. Raia Mutomboki Elenge |
| 6. FDC-Guides | 73. Mai-Mai Kiwis Kalume |
| 7. Busumba group | 74. RM Hamakombo |
| 8. FDLR-FOCA | 75. RM Imani Bitaa |
| 9. FDLR-RUD | 76. RM Kimba |
| 10. FNL - Nzabampema | 77. RM Kazimoto |
| 11. Mai-Mai Kombi | 78. Raia Mutomboki Lukoba |
| 12. Nyatura FDP | 79. Raia Mutomboki Mabala |
| 14. LD Zone | 80. RM Maheshe |
| 15. LD Kashumba | 81. RM Mungoro |
| 16. LD Mahinduzi | 82. Raia Mutomboki Mirage |
| 17. Mai-Mai Mbulu | 83. RM Musole |
| 18. Mai-Mai Délégues | 84. Raia Mutomboki Safari |
| 19. ex-M23 | 85. RM Ndarumanga |
| 20. Guides-MAC | 86. RM Shukuru |
| 21. Mai-Mai Charles | 87. RM Kikwama |
| 22. Corps du Christ | 88. RM Wemba |
| 23. FRPI | 90. UPCL-Lafontaine |
| 24. RM Kabanzi | 91. RM Shabani |
| 26. Mai-Mai Kifuafua | 93. RM Bipompa |
| Baeni-Limenzi | 94. Mai-Mai Kyandenga |
| 27. Mai-Mai Kifuafua Delphin | 95. Nyatura Love |
| 28. Nyatura Kigingi | 96. Mai-Mai Mazimano |
| 29. Mai-Mai Kifuafua Maachano | 97. Raia Mutomboki Kisekelwa |
| 30. Mai-Mai Kifuafua Shalio | 98. Mai-Mai Jackson |
| 31. Mai-Mai Simba (Manu) | 99. Mai-Mai Dario |
| 32. Mai-Mai Mwenyemali | 100. Mai-Mai |
| 33. Mai-Mai Nzirunga | Léopards-Muthundo |
| 34. Mai-Mai Forces Divines | 101. MRC-L |
| Simba | 102. UPLC |
| 35. Nyatura Mahanga | 103. Raia Mutomboki |
| 36. Mai-Mai Reunion (FPC) | Shebitembe |
| 37. Nyatura Bizagwira | 104. Mai-Mai Ebu Ela |
| 38. Mai-Mai Makanaki | 105. RED-Tabara |
| 39. Mai-Mai Kirikicho | 106. Ngumino |
| 41. Mai-Mai Mahoro | 107. Mai-Mai Bigaya |
| 42. Mazembe | 108. FOREBU/FPB |
| 43. Biloze Bishambuke | 109. FNL Nibizi |
| 44. Mai-Mai Mulumba | 110. RM Kabazimia |
| 45. Mai-Mai Mushombe | 111. Nyatura Gatuza |
| 46. Mai-Mai Nguru | 112. Nyatura JED |
| 47. Mai-Mai Nyakiliba | 113. Nyatura Jean-Marie |
| 48. Mai-Mai Nyerere | 114. Mai-Mai Kithikyolo |
| 49. Mai-Mai PRM/PAREM | 115. Mai-Mai Sibenda |
| 50. Mai-Mai Echilo | 116. Milice Pakombe |
| 51. Mai-Mai Malaika-She Assani | 117. Mai-Mai Lwanga |
| 52. Mai-Mai Vivuya | 118. Mai-Mai Simba-Luc |
| 53. Mai-Mai Yakutumba | 119. Milice M'vuba |
| 54. Mai-Mai Karakara | 120. Raia Mutomboki Mamba |
| 55. Nyatura-APRDC | 121. Mai-Mai Muhima |
| 57. NDC-R | 122. RM Machite |
| 58. NDC Sheka | 123. Raia Mutomboki Manyilisa |
| 60. Nyatura Delta | 124. Mai-Mai Aigle |
| 61. Nyatura Domi | 125. Twiganeho |
| 62. Mai-Mai Mupekenya | 126. Nyatura Nzayi |
| 63. Nyatura Kavumbi | 129. Mai-Mai René |
| 64. Nyatura Kalume | 130. Raia Mutomboki |
| 65. Nyatura Kasongo | Shemakingi |
| 68. RM Akilo | 131. Local Defense Ngengwe |
| 69. Raia Mutomboki Blaise | 132. CNPSC |



Source: KIVU Security Tracker. A dynamic online version of this map can be found at <https://kivusecurity.org/map>

This did not take place, and has left many opposition parties in some sort of legal limbo.⁹

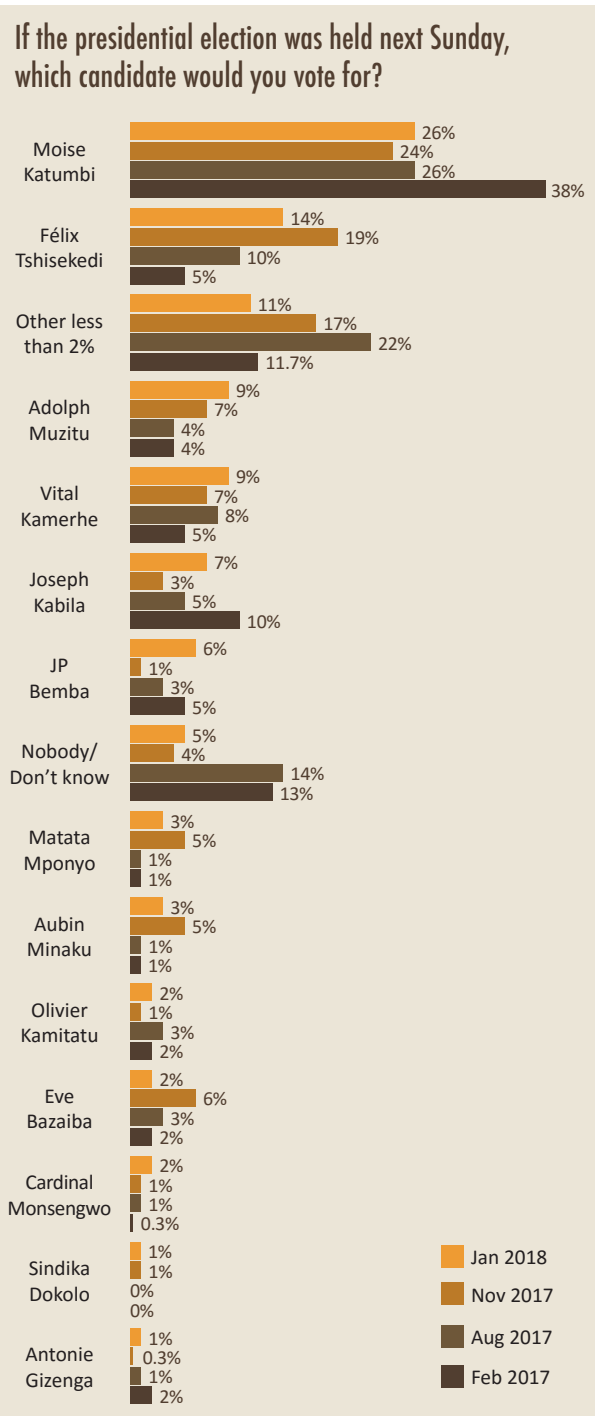
While most of the dispositions of the December 31 agreement have not been correctly implemented, diplomats and civil society still uphold the document as a blueprint for a way forward, and it is likely that the UN Security Council will too. In the agreement, President Kabila commits to stepping down and respecting the constitution, and it contains important clauses on the opening of political space and electoral reforms.

After elections were not held on the agreed-upon timetable, a new grassroots protest movement arose, led by the Comité Laïc de Coordination (CLC), a lay group of the Catholic Church. They organized protests on December 31 2017, and January 21 and February 25 2018. Using Catholic parishes and masses to convene and launch their marches, they were able to muster much larger crowds than previous protests. Security forces reacted brutally, tear-gassing people in churches, beating up Catholic priests, and killing at least 11.¹⁰

At the time of writing, there is no longer any political process with regard to the elections, all negotiations have ground to a halt, and protagonists had radicalized their positions. The ruling coalition backs the timetable set out by the CENI, while in public much of the opposition and civil society argue that no credible elections can take place as long as Kabila is in power. Nonetheless, in private at least, some members of the opposition remain open to elections if the government and CENI institute confidence-building measures. Barring dramatic rigging, elections would be in the favor of opposition parties: in a CRG/BERCI poll in January 2018, only around 17 percent would vote for a presidential candidate from the ruling coalition.¹¹

Violence in the eastern Congo

Violence in the eastern Congo has increased – almost imperceptibly, but also catastrophically – over the past two years, increasing the number of displaced people by almost three million.¹² More people were displaced in the Congo in 2017 than in any other country, and the Congo is only one of three countries in the world declared a Level 3 emergency by the United Nations.¹³



There has not been one main armed group or incident that has led to this escalation, which has allowed it to largely escape international attention. In part, these dynamics are a continuation of armed group mobilization that dates back over two decades, rooted in land conflicts, local power struggles, and economic racketeering.

But to a significant degree, this escalation is also linked to the national political arena, both directly and indirectly.¹⁴ There are signs that armed groups have begun positioning themselves ahead of a contentious political battle over power nationally. For example, a new coalition of armed groups in South Kivu was established in mid-2017 with the explicit aim of overthrowing the government, a call that has been echoed by several other groups and coalitions in North and South Kivu.¹⁵ On January 30 2018, veteran opposition and rebel leader Mbusa Nyamwisi declared that only an armed struggle would be able to oust Kabila from power.¹⁶ While none of these groups appears to be able to conquer major cities, let alone overthrow the government, their challenge is certainly linked to Kinshasa politics.

On the other hand, the government has shown little interest in bringing about systemic change with regards to the conflict. The government's own security sector reform plan, which contained important reforms, has made almost no progress in the five years since it was mooted.¹⁷ There continues to be little independent oversight over the army and police, although some progress has been made on prosecuting military abuses.¹⁸ The demobilization program, which was launched in November 2015 and was supposed to provide an exit option for armed groups, has been declared dead by donors.¹⁹ And stabilization efforts to build police stations, roads, and bring about reconciliation and land reforms have – with some exceptions – faltered due to a lack of government ownership.²⁰

Much as in the electoral arena, there is no commonly agreed blueprint for dealing with the conflict in the Congo in a comprehensive fashion. The Peace, Security and Cooperation Framework signed by 11 regional countries in 2013 has fizzled out, and the UN-led and donor-backed stabilization plan has scaled down its ambitions.

A divided international community

MONUSCO's political leverage depends largely on the extent to which it receives backing from the UN Security Council, the donor community, and regional states. Almost all countries and international organizations involved in the Congo believe that the way out of the current impasse is

through elections, and refer to the December 31 2016 agreement as a statement of principles for a resolution of the current impasse.

It is far from clear, however, whether member states are willing to enforce these declarations with real economic or political pressure, and to what extent they care about the credibility of the polls. Considering the precedent set by the 2011 elections which, despite rampant irregularities, the Southern Africa Development Community (SADC) and the African Union (AU) said reflected the will of the people, and the examples of the 2015 Burundian and 2017 Rwandan elections, it is likely that regional countries and organizations are mostly concerned about stability and the holding of elections, and not the procedural integrity of the process.

Other differences divide the international community: the United States and the European Union have imposed targeted sanctions against eight and 16 government officials, respectively, for human rights abuses linked to the elections and obstruction of the democratic process.²¹ This, however, was harshly criticized by African countries, even those like Angola who are sympathetic to pressure on Kinshasa.²² Some European countries are wary that sanctions are too much of a blunt instrument that could push Kabila's government toward radicalization.²³ A similar divergence can be found in the UN Security Council, where Russia and China are skeptical about excessive intervention in the Congolese political process.

Economic interests could also force a wedge between diplomats. World cobalt prices have tripled in the past two years, while copper prices have risen by 60 per cent, making the Congo extremely attractive for multinational mining interests. The country produces more than half the world's cobalt at a time when demand for the mineral is increasingly dramatically due to the production of batteries for electronics and cars; it is also Africa's largest producer of copper. While these economic stakes are rarely explicitly discussed, their importance is evident. Between 2012 and 2017, Chinese companies spent more than \$10 billion purchasing or investing in mining companies in the Congo, equivalent to almost a third of the country's GDP.

MONUSCO's struggle for relevance

In its 2015 review of UN peace operations, a high-level panel concluded that, “political solutions should always guide the design and deployment of UN peace operations.” However, MONUSCO has been marginalized politically since 2007 and has played only a minor political role in the electoral process in Kinshasa and armed conflict in the Kasais or the eastern Congo. During this period, it has been increasingly confined to carry out military peacekeeping in the eastern Congo in the absence of a political process or framework.

This technocratic approach initially made sense. The 2006 elections were supposed to mark the end of the peace process, and the UN operation was eventually transformed into a stabilization mission with the goal of extending state authority and supporting the strengthening of state institutions. It quickly became clear, however, that the conflict was not over, but had merely changed. When in 2006 a new rebellion, the Conseil National pour la Défense du Peuple (CNDP), challenged the new national army and a variety of other armed groups emerged, the UN was kept out of negotiations with these armed groups.

This political isolation continued as more armed groups appeared over the coming years and the political crisis in Kinshasa threatened the very institutions forged through the UN-backed peace process. In 2015, when the head of MONUSCO attempted to broker a dialogue between the ruling coalition and the opposition, he was reprimanded by President Kabila. These tensions were apparent as well in a rare press conference that the president gave in January 2018, where he stated: “In the coming days, we need to clarify our relationship with MONUSCO. If the ambition is to place the Congo under the trusteeship of the United Nations, they have not said that until now and I hope that is not the case. There is no joint management of the Congolese state with MONUSCO and that is the tendency!”

Relations between the government and MONUSCO frayed during the latter part of Martin Kobler's tenure as the Special Representative of the Secretary-General (SRSG) in 2014-2015. Maman Sidikou, who then served until the end of 2017, was asked by the UN to reestablish cordial working relations with the Congolese government, in particular in order to be able to relaunch joint operations with the Congolese army. He was then, however, harshly criticized by the political opposition for being too supportive of the government.

MONUSCO's Mandate

There is broad agreement among Council members that the priorities should continue to be elections and the protection of civilians. And that after the sharp budget cuts of last year, driven by the United States, no serious further cuts are necessary.

The main challenge then becomes: How should MONUSCO engage with an increasingly contested government, whose interests in both the electoral and stabilization arena appear to differ dramatically from those of the UN?

Elections

It is clear that MONUSCO will not play the kind of intrusive role the UN played in the Ivory Coast in 2010, where the UN mission certified election results, nor like its predecessor mission did in 2006 in the Congo, when the UN ran a large part of the electoral process.

MONUSCO's contribution to elections must contend with a government and electoral body that are hostile to outside meddling, even though these same actors are eager to have the legitimacy that international support brings with it. A MONUSCO official described this narrow line they have to walk: "We need access, if we are too critical in public, we will lose the ability to know what is happening inside the CENI."²⁴

Regardless of the mandate, the mission will have to strive to improve the performance of both its civilian and military components. Many diplomats and even MONUSCO officials have expressed frustration with the current approach of the electoral division, saying that they did not display the same kind of transparency shown by other parts of the mission. One diplomat went so far as to say: "I am not sure who they are working for sometimes – MONUSCO or CENI."²⁵ While this sentiment was not shared among all diplomats, there is a general feeling that there is not enough information sharing and strategic vision by the electoral division. This criticism is even more prevalent along Congolese civil society and the opposition, for whom MONUSCO's technical support to the elections is almost invisible.

The lack of transparency from within the CENI – it has been accused of financial opacity and for not providing access to the voter registry – has exacerbated this situation.²⁶

Compounding this, there is a feeling that there is a lack of strategic leadership within the mission on elections. The Secretary-General's strategic review last year recommended that the SRSG be assisted by a dedicated senior advisor on elections, but that has not materialized.²⁷

A. Conditioning MONUSCO's support to the electoral process

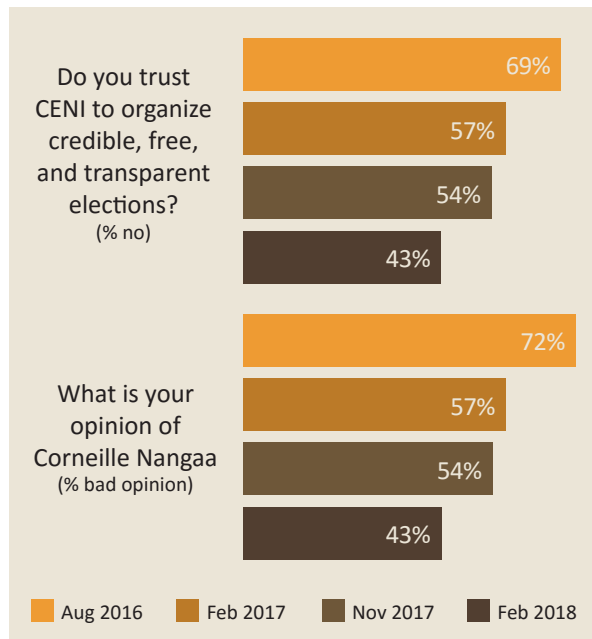
The most important challenge facing the mission is not technical but political. International support to the electoral process is currently very small – only around 6% of the planned \$123 million basket fund for elections has been made available. MONUSCO, however, plans on asking for a budget supplement of \$94 million for the election, largely for logistics. Without MONUSCO's fleet of airplanes and helicopters, the CENI will have a much harder time organizing elections.

In 2011, MONUSCO suspended its support to elections several months before the vote due to concerns of transparency and repression, and the government was able to conduct the elections with the support of the Angolan and South African government. This time, given its strained relations with Luanda, and uncertain relations with the new ANC leadership in South Africa, it will be much more difficult to find such a large fleet of airplanes on short notice. This provides MONUSCO with leverage, but also substantial responsibility.

As one senior western diplomat said, "it makes no sense to support elections if they are not credible."²⁸ The question then becomes how to define credible, and when to call off support to elections. Most western diplomats and UN officials are clear that supporting the electoral process under the current conditions does not make sense, with all demonstrations critical of the government banned, opposition figures in prison, and political institutions controlled by the government. What if, however, the government

released some of the 80 political prisoners, and allowed some demonstrations, but maintained a highly restrictive grip on the electoral process?

MONUSCO is in a bind. If they boycott the process, the Congolese government will likely hold elections anyway – perhaps under worse conditions, or even use the lack of funding as an excuse to change the presidential elections from direct to indirect. In any event, MONUSCO is likely to be blamed, either for obstructing the elections or for backing a flawed process.



MONUSCO's current Resolution 2348 is relatively vague, making it difficult for the mission to condition its support: "[The Security Council] decides that this support will be continually assessed and reviewed according to the progress made by the Congolese authorities in the steering of the electoral process, particularly on presidential and legislative elections."

The solution is to adopt a flexible, but conditional and benchmarked approach. The Council should assess the multiple challenges to the integrity of the process in a holistic fashion, while maintaining a firm insistence on the rights of assembly, free speech, the release of political prisoners, and the neutrality of electoral institutions such as the CENI, the police, and court system.

The Security Council could do this by asking the mission to draw up an assessment of the electoral process and the general political climate by August 2018, by which time presidential candidates will have had to be announced, according to the electoral calendar. The Council should then decide whether the process is credible enough to support. At the same time, the Council should assess the progress made on the electoral calendar on a monthly basis, as suggested by the US permanent representative to the United Nations, including by asking the head of the mission or the Department of Peacekeeping Operations to brief them. The recent Arria Formula meeting of February 12 2018 was a good step in this direction.

B. Good offices and member state support

MONUSCO has had the mandate to support the electoral process and the implementation of the December 31 2016 agreement through its "good offices." In the past, it has been extremely difficult for the SRSB to apply this part of the mandate. The new head of the mission, Leila Zerrougi, will have to work hard to establish strong working relationships with political actors in the opposition, the *majorité présidentielle*, and civil society.

Good offices involve both using public diplomacy and private contacts. In recent years, too much emphasis was placed on the latter out of fear of antagonizing the host government. This approach, however, has not yielded tangible results, and the mission should speak out more clearly and strongly against human rights abuses and manipulation of the electoral process. On several occasions in recent years, the mission has made statements that have squandered its popular legitimacy:

- The mission endorsed the nomination of Bruno Tshibala as prime minister, in contravention to the spirit of the December 31 2016 agreement.²⁹
- After the brutal repression of street demonstrations in Kinshasa, the mission preferred not to make any statements, but to allow the Secretary-General's office make a relatively feeble one, which expressed concern but did not condemn the abuses.³⁰
- Eight months after the beginning of brutal violence in the Kasai, and after a United Nations

human rights investigation that revealed “massive human rights violations” by Congolese security forces, MONUSCO issued a statement that gave equal emphasis to abuses by Kamuina Nsapu militia and the Congolese government.³¹

In addition, MONUSCO has not published any rigorous analyses of the registration process, the electoral calendar, or the proposed – and controversial – use of voting machines.

In order, however, to take strong stances, Zerrougi will need steadfast backing from the Secretary-General and the Security Council, who need to insist on credible elections, including the respect of political freedoms and the neutrality of electoral institutions.

Even more critical will be the backing of regional organizations. While at the moment, the UN, SADC, and the AU – the three most important international organizations with regard to the Congolese crisis – are all in agreement that elections are the only way out of the impasse, that unity will be tested if the country does head toward elections. It will be critical, therefore, for the SRSG to establish a strong relationship with these actors ahead of these inflection points, and to agree on common principles, objectives, and criteria for assessing progress toward elections.

New dynamics in the region may be in MONUSCO's favor. The SADC recently named a special envoy to the Congo, although the Congolese government has delayed his arrival in Kinshasa.³² Likewise, the resignation of South African President Jacob Zuma, who had close personal relations with Joseph Kabila, could spell a turning point in bilateral relations between the two countries.

C. Protection of civilians in the context of demonstrations

The mission currently has the mandate to protect civilians in the context of elections, but the 2017 mandate does not provide detailed instructions. In recent months, the mission has become increasingly proactive, including by positioning itself between the police and protestors. Perhaps most importantly, the mission has taken some clear, strong positions, especially by issuing a statement ahead of the 21 January 2018 demonstrations that insisted on the right of assembly and said

MONUSCO officials and troops would monitor for any abuses. Greater information sharing with embassies accredited in Kinshasa was also able to boost confidence in the mission, although similar outreach to civil society has been lacking. This trend is encouraging, even as it provokes criticism from the government.

However, the mission does not have adequate resources for this kind of protection work; it requires more formed police units (FPU) and civilian teams to monitor human rights abuses. In addition, it is clear that not all MONUSCO troops are proactive in the implementation of their mandate. In several places on January 21, MONUSCO troops stood by as police forces used unnecessary force to attack and disperse peaceful crowds. One protestor in Goma recounted:

We were stuck in the Cathedral from 8am until 2pm, for six hours. They were shooting tear gas into the Cathedral and beating anyone who tried to come out. Outside, MONUSCO deployed observers and troops, but they didn't do anything. First we were protesting outside the Cathedral, then they started pelting us with tear gas and rocks, so we went into the church. They continued firing tear gas into the church, some of us were injured and had to be taken out by the Red Cross. At one point, even the Red Cross couldn't get into the church. The situation could have been solved easily, by providing us a way out, but MONUSCO just stood around.³³

It will be critical for MONUSCO to provide its troops and civilian officials with training and instruction in how to deal with these kinds of eventualities, and for the mission to be forward leaning in condemning abuses by the government. Nonetheless, it will be difficult for MONUSCO to provide protection for all opposition leaders, as embassies are recommending – the well-known doctor and activist Denis Mukwege alone requires almost an entire formed police unit for his protection.

D. The Group of Electoral Experts

One mechanism that could further coordination

among Congo's partners is the Group of Electoral Experts created during the United Nations General Assembly. This Group, which includes representatives from the AU, SADC, the International Conference on the Great Lakes Region (ICGLR), the Organisation Internationale de la Francophonie (OIF), the UN, and the EU, was requested by Corneille Nangaa and deployed to Kinshasa in November 2017. Its objective was to enhance trust in the electoral commission by assessing progress made toward elections. However, the CENI quickly soured on the Group. The commitment of some of its members was also questioned – SADC, for example, has still not sent a delegate, and the future of the Group is currently in the balance.

The Council and its regional partners should seize on this Group as a means to forge both more cooperation with the region on the electoral process, and to render that process more transparent.

Armed conflict

Since MONUSCO was deployed in 1999, the UN peacekeeping missions to the Congo have been able to operate under Chapter VII of the UN Charter to protect civilians in imminent danger. This mandate, however, has been interpreted in different ways over time. For most of its history, MONUSCO troops have adopted a reactive posture, attempting to deter violence through their mere presence, and responding to human rights abuses that were already underway. Given the size of the country and the lack of roads, this approach has had extremely limited success. However, at various moments, peacekeepers have adopted a more pro-active stance, most notably in Ituri between 2004 and 2005, and more recently, and with the explicit backing of the UN Security Council, with the Force Intervention Brigade (FIB), which was deployed in 2013 in response to the M23 crisis. The FIB proved to be very effective against the M23, contributing substantially to its defeat in November 2013.

The FIB, however, quickly lapsed into a more reactive stance, a posture that can in part be explained by the political nature of the force – the Tanzanian and South African governments had initially deployed their troops in an effort to stem the Rwandan

backing of the M23. Once the M23 was defeated, the troops were much less motivated to go after other armed groups such as the Allied Democratic Forces (ADF) and the Forces Démocratiques de Libération du Rwanda (FDLR). According to a 2015 internal review of the FIB conducted by the United Nations, the contingents “provide protection by presence, rather than addressing the threat at its source,” as their mandate calls for.³⁴ The review describes several instances of insubordination, during which the FIB troops refused direct orders. This was confirmed by CRG interviews in the field in 2017 – one senior MONUSCO officer reported that he had to physically be present in order to ensure compliance with orders to conduct aggressive patrolling around Beni town.³⁵ In an official briefing in 2018 to diplomats, a senior FIB officer said that he felt their mandate contradicted the principles of UN peacekeeping, and he was obviously uncomfortable to use force proactively against armed groups.³⁶

The interpretation of the mandate, and the impact of UN military forces in general, appears to depend significantly on the individual commanders and the troops. “Some of the troops have been excellent, others have not,” explained a senior UN official.³⁷ The performance of troops also appears to be subject to the pressures placed on them. When the budget of MONUSCO was cut in 2017 due to US policy, the Security Council and the mission were able to use this as a means to sanction units that had not performed – an Indian battalion that had displayed lackluster performance was removed, for example. This reportedly had an impact on other troops from the Indian contingent, who then improved their performance. Nonetheless, the consensus among senior civilian officials is that most contingents are too passive in the interpretation of the mandate.³⁸

Despite this frequent criticism, the Congo has also been a laboratory for innovations with regards to the protection of civilians. The mission has experimented with:

- Joint Protection Teams (JPT), civilian members of the mission who are deployed in response to emergencies and evaluate what the mission can do to protect civilians.

- Community Liaison Assistants (CLA), Congolese fluent in the local language who help the military communicate with and understand the needs of the local community.
- Community Alert Networks (CAN), focal points in communities surrounding MONUSCO bases and who are in touch with them via radio or phone to alert them to security problems.
- Combat Liaison Support Teams (CLST), who are appointed to act as points of contact with FARDC during joint operations.
- Local Security Committees, which MONUSCO sets up at the provincial and territorial level to provide a framework through which they can engage with local officials and civil society.

These innovations have bolstered MONUSCO's ability to understand and respond to security threats.

It is clear, however, that the mission cannot fundamentally transform conflict dynamics in the Congo. Since the 2006 elections, the UN has had limited ability to affect armed groups' incentives to form, demobilize, and abuse civilians. The same can be said in regard to MONUSCO's relations with the FARDC. While MONUSCO engages in discrete diplomacy with armed groups, there is no political process or demobilization program in which these talks can take place.

A. Joint operations

The UN peacekeeping mission has conducted joint operations with the FARDC since the transition in 2003-2006. According to commanders and civilian leaders of the mission, these operations are above all useful in reducing the human rights violations of the FARDC, and can help make progress against armed groups.

However, these operations have sparked criticism from numerous sides. By backing the FARDC, MONUSCO has become party to the conflict, undermining principles of impartiality in peacekeeping operations.³⁹ It has also been forced to try to reconcile its support for the Congolese army – and to a lesser degree, for the police – with its mandate to protect civilians and the human rights principles of the United Nations. It has tried to do this by adopting an HRDDP, in force since

2013, and through the vetting of FARDC officers with which it collaborates. It was this vetting that led to a breakdown in relations between the two sides in February 2015, when MONUSCO suspended joint operations with the FARDC over two abusive generals, which then led to an end to all military collaboration until January 2016, when support resumed.

The FARDC are also the cause of conflict in other ways. During their Sukola II operations against the FDLR in late 2015 and early 2016, the FARDC collaborated with local proxies, in particular the NDC-R and the Mai-Mai Mazembe, against the Rwandan rebels. This exacerbated local ethnic conflict, as the NDC-R and the Mazembe draw support from the Nyanga and Nande populations, respectively, and the FDLR collaborated with Nyatura, militia from the Congolese Hutu community. While MONUSCO did not back these militia, or condone these operations, its backing of other aspects of Sukola II operations undermined its ability to publicly criticize these dynamics and compromised its impartiality in the eyes of the population.⁴⁰

Similarly, the FARDC have been accused of being involved in the massacres around Beni in 2014-2016; the FARDC commander of these operations, General Akili Mundos was later sanctioned by the United Nations for his role in these killings.⁴¹ Nonetheless, MONUSCO provided support to some of Mundos' commanders during this period.

Almost all MONUSCO and diplomatic officials we spoke with supported joint operations, saying they reduced human rights abuses and reinforced relations with senior FARDC, providing “a moderating influence,” as one MONUSCO official put it.⁴² Nonetheless, the mission has moved from “support” to “cooperation,” following criticism. The mission now tries to make sure that any support follows joint planning of operations. However, it is difficult to isolate MONUSCO support – rations, water, and fuel given to one unit of the FARDC can be diverted to another, and the population cannot distinguish between support given to a unit and to the FARDC as a whole.



Figure 1: Congolese police motorcycle in Goma with “Gift of MONUSCO” written on side.

One example of this are motorcycles given to the police by MONUSCO, and emblazoned with “Gift of MONUSCO” in Goma, which have reportedly been used during the repression of demonstrations in Goma. Youth activists in Goma have complained that even during the recent December 31 2017 protests, police pick-ups received fuel from MONUSCO gas stations and then were used to repress demonstrations.

MONUSCO officials have argued that this support allows them to influence police officers and restrain human rights abuses.⁴³

The FARDC, on their side, do not appear to be very interested in receiving support from MONUSCO at the moment. In early February 2018, the mission extended its cooperation agreement with the FARDC by three months, but there are few joint operations currently underway.

Given the abuses carried out by the FARDC, and the questionable legitimacy of the Congolese government, MONUSCO should place more emphasis on human rights monitoring, training, and civilian protection work than on military

operations. It should not provide material support that can be diverted to other units, such as fuel or food. It is important that the mandate emphasizes the ability for MONUSCO to conduct unilateral military operations, like its recent defense of the town of Uvira in September 2017, which would have fallen to a Mai-Mai coalition if it had not been for robust MONUSCO action.

More broadly, several UN officials commented that when Maman Sikidou was named head of MONUSCO in October 2015, he was told that re-establishing good relations with the Congolese government, and re-starting joint operations should be seen as a priority. Given the current context, this is no longer applicable; such a priority would inevitably undermine the ability of the mission to speak out freely and forcefully against government abuses. Instead, military collaboration with the Congolese government should be reduced to cases where the government is willing to plan operations jointly and establish a civilian harm reduction strategy together with MONUSCO. In recent months, the mission has often provided support to the FARDC without having much influence in this regard.

The long-term priority should be on rebuilding a viable political strategy for protecting civilians in zones of armed conflict. Part of this can be military operations, but these should be part of a comprehensive approach that includes a community-based demobilization program, communal reconciliation, and infrastructure and economic development. It is unlikely that such a comprehensive approach can be developed until after elections.

B. Performance of the mission

As outlined above, the performance of MONUSCO's various military and civilian units varies considerably. While the previous mandate called for a regular assessment of force effectiveness, this has not provided an adequate means of evaluating MONUSCO's various military contingents. The Council should call for an independent monitoring unit that would be sheltered from pressure from the mission and from member states. An additional, complementary mechanism could be a whistleblower system for reporting abuses carried out by civilian and military members of the UN mission.

C. Budgetary considerations

The budget of the UN peacekeeping mission will be drawn up at a later stage, in the 5th Committee of the UN General Assembly. Much of the functioning of the mission depends on these budgetary allocations. For example, the mission has been shifting toward an approach of "protection through projection," which requires the Force to be less static, deploying Rapid Deployable Battalions (RDBs) to areas for short periods of time, often together with civilian staff. This requires bases to be closed and MONUSCO troops have had to become more nimble in their deployment.

This approach, however, relies on the availability of air assets. MONUSCO has lost a large share of its air assets – one diplomat put this at 35% – over the past three years.⁴⁴ This problem is also present on the civilian side, as JPTs also require a large travel budget and the availability of air assets, parts of the mission that have been reduced in recent years.

Conclusion

MONUSCO, although it is the largest UN peacekeeping force in the world, has limited means to transform the conflict in the eastern Congo or to render the elections in Kinshasa credible – those dynamics will depend much more on the Congolese themselves, as well as on regional and international geopolitics.

There is a dangerous tendency among diplomatic actors to downplay both the severity of the crisis and their ability to effect change. One senior diplomat, when asked whether he would consider it a success if President Kabila steps down but rigs the elections in favor of his successor, answered: “Yes, considering the options at the moment.”⁴⁵ In interviews, several other prominent diplomats agreed with this position, not because they think it is an ideal outcome, but because they think it may be the most realistic one they can hope for. This sets the bar too low and underestimates the degree to which the political crisis in Kinshasa is linked to the conflict in the countryside. The persistence of conflict in the Congo is deeply linked to a crisis in political governance that can only be solved in the long term through greater accountability for the country’s political and military leadership. Elections are the best and most legitimate way to further such accountability.

MONUSCO is the largest peacekeeping mission in the world. It has a prominent platform in the Congo and globally to further the peace process. In order to do this, however, it must stake out bolder positions while seeking to promote consensus among political actors in the Congo and the region.

Endnotes

- ¹ The Catholic Church was asked by the opposition to evaluate the arrest warrant issued for Moïse Katumbi, a leading opposition figure. On March 29, 2017 the Conférence épiscopale nationale du Congo (Cenco) submitted a confidential report to President Kabila which recommended the charges be dropped.
- ² Jason Burke, "DRC crisis: aide says Kabila not standing in elections," *The Guardian*, February 7, 2018; Nicholas Pinault, "DRC: Kabila Will Name Successor Candidate by July," *Voice of America*, February 1, 2018.
- ³ Interview with diplomat, Gisenyi, February 10, 2018; electronic communication with diplomat, February 12, 2018.
- ⁴ Moïse Katumbi and Mbusa Nyamwisi are the most important leaders in exile. In a January 2018 poll conducted by CRG (a phone poll with 1,100 respondents), 26 per cent said they would vote for Katumbi in presidential elections, more than any other potential candidate. Frank Diongo, Diomi Ndongala, and Jean-Claude Muyambo are the most important opposition politicians under arrest in Kinshasa. There are also numerous pro-democracy activists under arrest, including Parfait Muhani, Rachel Beni, Ben Kamuntu and Justin Mutabasha (LUCHA); Carbone Beni, Cédric Kalomji, Grâce Tshionza, Mino Momponi, Dickson Mputu and Palmer Kabeya (Filimbi).
- ⁵ Researchers from Human Rights Watch, the Congo Research Group, and Global Witness have been expelled from the country, while at least two well-known foreign journalists have seen their visa requests denied. On July 12, 2017 the Ministry of Information issued a regulation requiring foreign journalists to obtain authorization for travel within the country, see <https://7sur7.cd/new/2017/07/mouvement-des-journalistes-etrangers-a-linterieur-du-pays-lambert-mende-impose-une-autorisation-de-circulation/>. More recently, the Ministry of Mines has tightly regulated any research or reporting in mining concessions.
- ⁶ According to the by-laws of the CENI, there are six delegates from the ruling coalition, four from the opposition, and three from civil society. The president is named by the religious community, but the Catholic Church boycotted the process.
- ⁷ For example, the constitutional court ruled in May 2016 that President Kabila could remain in power indefinitely, until elections are held, a decision criticized by several constitutional scholars in the Congo. See Radio Okapi, *Dialogue entre congolais*, December 5, 2016. During an election for governors in August 2017, an appeals court ruled that a member of the ruling coalition could not run as an independent, a verdict that was also sharply criticized, see <http://cas-info.ca/la-ceni-fixe-lelection-des-gouverneurs-et-vice-gouverneurs-dans-11-provinces-au-26-aout/>
- ⁸ Article 26 of the Congolese constitution.
- ⁹ This is the case for the UDPS, MSR, UNAFEC, and ARC. The case of the UDPS is currently being considered by a court in Kinshasa.
- ¹⁰ United Nations Human Rights Council, Press Statement, January 5, 2018; Radio France International, "Violence du 21 janvier en RDC: pour le pouvoir, la responsabilité est partagée," January 25, 2018.
- ¹¹ That figure would increase 25 percent if candidates from PALU, which is currently allied to the ruling coalition, are included.
- ¹² According to the United Nations, there were 1.6 million displaced people in the Congo in December 2015, and by December 2017 there were 4.5 million. OCHA, "Democratic Republic of Congo: Internally Displaced Persons and Returnees (as of 31 December 2017)," 31 January 2018; OCHA, "République Démocratique du Congo: Personnes déplacées internes et retournées (décembre 2015)," February 12, 2016.
- ¹³ United Nations News, "Widespread militia activity, political unrest drive millions from their homes in DR Congo, UN warns," October 24, 2017.
- ¹⁴ See also Christoph Vogel and Jason Stearns, "The Landscape of Armed Groups in Eastern Congo: Fragmented, politicized networks," Kivu Security Tracker, December 2017.
- ¹⁵ Judith Verweijen, "Taking Uvira? The remarkable tenacity of the CNPSC coalition" www.sulu.org, September 20, 2017.
- ¹⁶ Pierre Benetti and Joao Tilouine, "Mbusa Nyamwisi ou le retour d'un chef de guerre dans le borbier congolais," *Le Monde*, January 30, 2018.
- ¹⁷ Jason Stearns, Maria Eriksson Baaz, and Judith Verweijen, "The National Army and Armed Groups in the Eastern Congo," Rift Valley Institute, 2013.

- ¹⁸ Open Society Justice Initiative, "Justice in DRC: Mobile Courts Combat Rape and Impunity in Eastern Congo," January 2013; Michael Maya, "Mobile Courts in the Democratic Republic of Congo: Complementarity in Action?" American Bar Association Rule of Law Initiative, December 2012.
- ¹⁹ Telephone interview with senior UN official, February 10, 2018.
- ²⁰ See, for example, Oxfam, "What you do for me, but without me, is against me," July 4, 2012.
- ²¹ Council of the European Union, "Democratic Republic of the Congo: EU adopts sanctions against a further 9 people," May 29, 2017; Steve Wembi, "Senior Congo Officials Linked to Kabila Face Sanctions for Rights Abuses," The New York Times, June 2, 2017.
- ²² David Lewis, Aaron Ross, "Angola shifts tone on Congo, deepening Kabila's isolation," Reuters, June 21, 2017.
- ²³ Interview with UN Security Council member, New York, January 29, 2018.
- ²⁴ Telephone interview with MONUSCO official, February 2, 2018.
- ²⁵ Telephone interview with diplomat in Kinshasa, February 1, 2018.
- ²⁶ "RDC: L'ODEP dénonce l'opacité dans la gestion des fonds mis à la disposition de la CENI," Radio Okapi, January 13, 2018.
- ²⁷ "Special report of the Secretary-General on the strategic review of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo," S/2017/826, September 29, 2017, para 49.
- ²⁸ Interview with diplomat, New York, February 4, 2018.
- ²⁹ Tshibala was indeed an opposition member, but his nomination as prime minister did not have the support of the main opposition parties, which had been the purpose of the December 31, 2016 Agreement. "Maman Sidikou: à la Monusco, on plaide l'incompréhension," Politico.cd, April 16, 2017.
- ³⁰ United Nations Press, "Statement attributable to the Spokesman for the Secretary-General on the situation in the Democratic Republic of the Congo," December 31, 2017.
- ³¹ MONUSCO, "MONUSCO Deplores The Ongoing Hostilities And Escalating Violence In The Kasais," April 5, 2017; High Commission for Human Rights, "RDC : le Haut-Commissaire aux droits de l'homme appelle à l'arrêt immédiat des massacres," February 20, 2017.
- ³² Marie-France Cros, "RDC: Kabila snob la SADC," November 27, 2017.
- ³³ Electronic communication with youth leader, February 13, 2018.
- ³⁴ UN internal document, on file with CRG.
- ³⁵ Interview with senior MONUSCO officer in Goma, January 15, 2017.
- ³⁶ Interview with diplomat, New York, February 2, 2018.
- ³⁷ Telephone interview with senior MONUSCO official, February 5, 2018.
- ³⁸ Telephone interview with senior MONUSCO official, February 5, 2018; electronic communication with MONUSCO official, February 6, 2018; interview with senior MONUSCO official, February 7, 2018.
- ³⁹ Emily Paddon, *Taking sides in peacekeeping: Impartiality and the future of the United Nations*, Oxford University Press, 2016. Aurélie Ponthieu, Christoph Vogel, and Katharine Derderian, "Without precedent or prejudice? UNSC resolution 2098 and its potential implications for humanitarian space in eastern Congo and beyond," *Journal of Humanitarian Assistance* 21, 2014.
- ⁴⁰ Similarly, the FIB supported operations against the *Alliance des Patriotes pour un Congo Libre* (APCLS) during which the FARDC collaborated with Nyatura militia. Christoph Vogel, "DRC: Assessing the performance of MONUSCO's Force Intervention Brigade," www.africanarguments.org, July 14, 2014.
- ⁴¹ Congo Research Group, "Mass Killings in Beni," September 18, 2017.
- ⁴² Telephone interview with MONUSCO official, February 1, 2018.
- ⁴³ Telephone interview with MONUSCO official, February 16, 2018.
- ⁴⁴ Telephone interview with diplomat, February 3, 2018.
- ⁴⁵ Conversation with senior diplomat, New York, September 27, 2017.

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